

DETAILED ACTION

This application has been examined. Claims 8-15, 18-34 are pending. Claims 1-7, 16-17 are cancelled. Claims 32-34 are submitted as new claims.

Making Final

Applicant's arguments filed 03/24/2008 have been fully considered but they are not persuasive.

The claim amendments regarding – 'selecting at the portable wireless device' -- and the newly submitted claims alter the scope of the claims but do not overcome the disclosure by the prior art as shown below.

The Examiner is rejection and thus making this action FINAL.

Priority

The effective date of the claims described in this application is May 5, 2004.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 04/22/2008 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Spurgat (US Publication 2002/0173273) in view of Headley (US Publication 2002/0194260).

Spurgat disclosed (re. Claim 8) a system for playing media items, the system comprising:

a playlist server adapted to be communicatively coupled with the Internet, the playlist server having a plurality of playlists stored thereon; (Spurgat-Paragraph 34, '*servers that contain digital audio content and playlists*'))

a content server adapted to be communicatively coupled with the Internet, the content server having a plurality of media items stored thereon; (Spurgat-Paragraph 34, '*servers that contain digital audio content and playlists*'))

a rendering device for playing a media item; (Spurgat, Paragraph 37, '*various digital audio players*'))

a set-top box in communication with the rendering device for facilitating communication of the media item from the content server to the rendering device via the Internet; (Spurgat-Paragraph 48, ' *set-top box 107 can propagate this playlist information to any other mobile digital audio players 115 and fixed digital audio players 116*')

a set-top box operative to obtain one of the plurality of playlists stored on the playlist server, facilitate selection of a media item from the playlist, and direct the set-top box to request the media item from the content server and cause the media item to play on the rendering device.(Spurgat-Paragraph 48)

While Spurgat substantially disclosed the claimed invention Spurgat did not disclose (re. Claim 8) a remote control for controlling the set-top box.

Headley disclosed (re. Claim 8) a remote control for controlling the set-top box; (Headley-Paragraph 24) wherein the remote control is operative to obtain one of the plurality of playlists stored on the playlist server, facilitate selection of a media item from the playlist, and direct the set-top box to request the media item from the content server and cause the media item to play on the rendering device.(Headley-Paragraph 45)

The Examiner notes that Headley and Spurgat have overlapping disclosures regarding directing a set-top box to request the media item from the content server and cause the media item to play on the rendering device.

Spurgat and Headley are analogous art because they present concepts and practices regarding set-top boxes controlling content rendering devices. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Headley into Spurgat. The motivation for said combination would have been to create an audio-video system that a user can program to play multiple media from different audio and video devices in addition to combining this media with information separately from a network such as the Internet. (Headley-Paragraph 9)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Spurgat (US Publication 2002/0173273) in view of Headley (US Publication 2002/0194260) further in view of Edwards (US Patent 6946988).

While Spurgat-Headley substantially disclosed the claimed invention Spurgat-Headley did not disclose (re. Claim 9) wherein the remote control is dockable to the set-top box.

Edwards disclosed (re. Claim 9) wherein the remote control is dockable to the set-top box. (Edwards-Column 3 Lines 5-15,Column 4 Lines 10-30)

Spurgat,Headley and Edwards are analogous art because they present concepts and practices regarding set-top boxes controlling content rendering devices. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Edwards into Spurgat-Headley. The motivation for said combination would have been to enable a remote controller function without the redundancy of including two complete sets of interface elements in an electronic device. (Edwards-Column 1 Lines 50-55)

Spurgat-Headley-Edwards disclosed (re. Claim 10) wherein the remote control is dockable to the set-top box and is in wired communication with the set-top box when docked thereto. (Edwards-Column 3 Lines 5-15,Column 4 Lines 10-30)

Spurgat-Headley-Edwards disclosed (re. Claim 11) wherein the remote control can be used to control the set-top box when docked thereto. (Headley-Paragraph 24)

Spurgat-Headley-Edwards disclosed (re. Claim 12) wherein the remote control comprises a display and a keypad for facilitating control of the set-top box. (Headley-

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Paragraph 24)

Spurgat-Headley-Edwards disclosed (re. Claim 13) wherein the set-top box comprises a display and a keypad for facilitating control thereof. (Spurgat-Paragraph 46, *'set-top acting as audio gateway'*, Paragraph 68, *'audio gateway with input devices such as keyboard'*)

The Examiner notes that while Spurgat described a set-top box and audio gateway as separate embodiments, Spurgat clearly indicates that a set-top box is an equivalent of the audio gateway. Thus it would have been an obvious variation of Spurgat to include a display and keypad input for the set-top box. (See Amine US Publication 2005/0091693 regarding set-top boxes with display and keypad and docking port)

Spurgat-Headley-Edwards disclosed (re. Claim 14) wherein the rendering device comprises at least one of a stereo system, (Spurgat-Paragraph 71) a television, a digital home system, a DVD player, a stand alone monitor, a computer monitor, a cellular phone, (Spurgat-Paragraph 70) a PDA, a laptop computer, and a speaker.

Spurgat-Headley-Edwards disclosed (re. Claim 15) wherein the media item comprises at least one of a song, (Spurgat-Paragraph 41) a talk, a speech, a comedy sketch, a story, a picture, a video, a movie, and a television show.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-34 rejected under 35 U.S.C. 103(a) as being unpatentable over Headley (US Publication 2002/0194260) in view of Levitt (US Publication 2002/0151327).

Headley disclosed (re. Claim 20) a method for obtaining content, comprising: receiving, a playlist comprising a plurality of identifiers, each of the plurality of identifiers identifying a respective media item; (Headley-Paragraph 10-11)

selecting one of the plurality of identifiers; (Headley-Paragraph 44)

requesting a respective media item identified by the selected identifier from a content server; (Headley-Paragraph 35, *'information downloaded from remote database'*)

receiving the requested media item at a control device in communication with the content server and the rendering device; and (Headley-Paragraph 35, *'information downloaded from remote database'*)

playing the requested media item at a rendering device. (Headley-Paragraph 31)

However Headley did not disclose (re. Claim 20) receiving, at a portable wireless device, a playlist comprising a plurality of identifiers, each of the plurality of identifiers identifying a respective media item; and selecting at the portable wireless device one

of the plurality of identifiers. (Levitt-Paragraph 70,'*entertainment devices are controlled by PDA*';Paragraph 75, Paragraph 214)

Levitt disclosed (re. Claim 20) receiving, at a portable wireless device, (Levitt-Paragraph 75) a playlist comprising a plurality of identifiers, each of the plurality of identifiers identifying a respective media item; and selecting at the portable wireless device one of the plurality of identifiers. (Levitt-Paragraph 70,'*entertainment devices are controlled by PDA*';Paragraph 75, Paragraph 214)

Headley and Levitt are analogous art because they present concepts and practices regarding specifying desired multimedia media content via remote control. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Levitt into Headley. The motivation for said combination would have been to adapt existing intelligent devices for remote control and avoid the high cost of specialized products. (Levitt-Paragraph 10)

Headley-Levitt disclosed (re. Claim 19) wherein the media item comprises at least one of a song, (Headley-Paragraph 10) a talk, a speech, a comedy sketch, a story,

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a picture, a video, a movie, and a television show.

Headley-Levitt disclosed (re. Claim 21) wherein the portable wireless device comprises a remote control operable to affect functionality of the control device. (Levitt-Paragraph 70, *'entertainment devices are controlled by PDA'*, Paragraph 75, Paragraph 214)

Headley-Levitt disclosed (re. Claim 22) wherein the control device comprises a set-top box. (Headley-Paragraph 24)

Headley-Levitt disclosed (re. Claim 23) wherein the control device is operatively connected to the rendering device. (Headley-Paragraph 20)

Headley-Levitt disclosed (re. Claim 24) comprising receiving the playlist from a playlist server. (Headley-Paragraph 35, *'information downloaded from remote database'*)

Headley-Levitt disclosed (re. Claim 25) wherein the rendering device comprises at least one of a stereo system, (Headley-Paragraph 21) a television, a digital home

system, a stand alone monitor, a computer monitor, a cellular phone, a PDA, a laptop computer, and a speaker.

Headley-Levitt disclosed (re. Claim 26) wherein the identifiers comprise titles of media items. (Headley-Paragraph 33)

While Headley disclosed (re. Claim 18) receiving a second media item from the network;(Headley-Paragraph 48) Headley did not disclose (re. Claim 18) playing the second media item on the remote control operatively connected to at least one of a speaker and earphones; wherein the remote control is operative to concurrently control the media player via the network.

Levitt disclosed (re. Claim 18) playing the second media item on the remote control operatively connected to at least one of a speaker and earphones; wherein the remote control is operative to concurrently control the media player via the network. (Levitt-Paragraph 70, *'entertainment devices are controlled by PDA'*)

Headley and Levitt are analogous art because they present concepts and practices regarding specifying desired multimedia media content via remote control. At the time of the invention it would have been obvious to a person of ordinary skill in the

networking art to combine Levitt into Headley. The motivation for said combination would have been to adapt existing intelligent devices for remote control and avoid the high cost of specialized products. (Levitt-Paragraph 10)

Headley-Levitt disclosed (re. Claim 27) a set-top box for obtaining content from a remote content server, comprising: a wireless interface operative to receive directions from a remote control apparatus; (Headley-Paragraph 45, *'user selectively choose playlist'*)

a network interface operative to facilitate communications with a remote content server; (Headley-Figure 2, Paragraph 35, *'information downloaded from remote database'*)

a rendering-device interface operative to communicate with a rendering device; and (Headley-Figure 2, Paragraph 37, *'transmit commands to audio-video devices'*)

wherein the remote control is operative to direct the set-top box (Headley-Paragraph 24) to request a media item associated with an identifier selected from the playlist of identifiers from a remote content server, (Headley-Figure 2, Paragraph 35, *'information downloaded from remote database'*)

and the set-top box is further operative to direct a rendering device to play the media item. (Headley-Figure 2, Paragraph 37, *'transmit commands to audio-video devices'*)

Headley substantially disclosed the claimed invention Headley did not disclose (re. Claim 27) a remote control apparatus having a display and operative to display a playlist of identifiers, each of the identifiers being associated with a respective media item;

Levitt disclosed (re. Claim 27) a remote control apparatus having a display and operative to display a playlist of identifiers, each of the identifiers being associated with a respective media item; (Levitt-Figure 4D, Paragraph 214)

Headley and Levitt are analogous art because they present concepts and practices regarding specifying desired multimedia media content via remote control. At the time of the invention it would have been obvious to a person of ordinary skill in the networking art to combine Levitt into Headley. The motivation for said combination would have been to adapt existing intelligent devices for remote control and avoid the high cost of specialized products. (Levitt-Paragraph 10)

Headley-Levitt disclosed (re. Claim 28) wherein the rendering-device interface comprises the network interface. (Headley-Figure 2,Paragraph 37',*transmit commands to audio-video devices*)

Headley-Levitt disclosed (re. Claim 29) wherein the rendering device comprises at least one of a stereo system, a television, (Headley-Paragraph 21) a digital home system, a DVD player, a stand alone monitor, a computer monitor, a cellular phone, a PDA, a laptop computer, and a speaker.

Headley-Levitt disclosed (re. Claim 30) wherein the remote control apparatus is further operative to receive a list identifying a plurality of playlists, and further operative to select one of the plurality of playlists. (Levitt-Paragraph 84, '*media directory*', Paragraph 257, Paragraph 149)

Headley-Levitt disclosed (re. Claim 31) wherein the media item comprises at least one of a song, (Headley-Paragraph 10) a talk, a speech, a comedy sketch, a story, a picture, a video, a movie, and a television show.

Headley-Levitt disclosed (re. Claim 32) wherein receiving the playlist comprises receiving the playlist at the portable wireless device from a playlist server. (Levitt-Paragraph 70, '*entertainment devices are controlled by PDA*', Paragraph 75, Paragraph 214)

Headley-Levitt disclosed (re. Claim 33) wherein requesting the respective media item comprises: providing information, from the portable wireless device to the control device, instructing the control device to request the respective media item identified by the selected identifier from the content server, (Headley-Figure 2, Paragraph 35, *'information downloaded from remote database'*)

and sending a request for the respective media item from the control device to the content server.

Headley-Levitt disclosed (re. Claim 34) wherein the remote control apparatus is further operative to obtain the playlist from a playlist server. (Levitt-Paragraph 70, *'entertainment devices are controlled by PDA'*, Paragraph 75, Paragraph 214)

Response to Arguments

Applicant's arguments filed 03/24/2008 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) *[in italics]*:

Regarding claim 8, the combination of Spurgat and Headley fails to teach or suggest a remote control for controlling a set-top box, where the remote control is operative to: (1) obtain one of a plurality of playlists from a playlist server, (2) facilitate selection of a media item from the playlist, and (3) direct the set-top box to request the media item from a content server and cause the media item to play on an associated rendering device. ... even if the STB (107) of Spurgat performs the functions of the claimed remote control, Spurgat fails to teach or suggest a remote control for controlling the set-top box that performs those functions. Headley fails to correct this deficiency...the input device (107) of Headley simply operates as a conventional device for controlling a device such as the set-top device (106)...

The Examiner respectfully disagrees with the Applicant.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

Spurgat Paragraph 45-Paragraph 46 disclosed wherein an STB is able to (1) obtain one of a plurality of playlists from a playlist server, (2) facilitate selection of a media item from the playlist, and (3) direct the set-top box to request the media item from a content server and cause the media item to play on an associated rendering device.

Spurgat is not relied upon to disclose a remote control for controlling an STB.

The Examiner notes that Headley and Spurgat have overlapping disclosures regarding directing a set-top box to request the media item from the content server and cause the media item to play on the rendering device.

Furthermore Headley disclosed Paragraph 24 a remote control for causing an STB to control an audio-video interface in order to downloading playlists (Headley-Paragraph 35) and causing audio and video devices to play media in a desired sequence.

Thus the combination of Spurgat-Headley disclosed *a remote control for controlling a set-top box, where the remote control is operative to: (1) obtain one of a plurality of playlists from a playlist server, (2) facilitate selection of a media item from the playlist, and (3) direct the set-top box to request the media item from a content server and cause the media item to play on an associated rendering device.*

The Applicant presents the following argument(s) [*in italics*]:

Regarding claim 20, first, Headley fails to expressly or inherently disclose receiving a playlist at a portable wireless device...Headley discussed a multimedia playlist and method of playing different types of audio and video media on different audio and video devices. Paragraphs 10 and 11 of Headley do not disclose receiving a playlist at a portable wireless device.

The Examiner respectfully disagrees with the Applicant. Headley Paragraph 23 disclosed sending commands to the audio-video devices using the Sony S-Link control protocol which teaches infra-red communication. The S-Link protocol was designed to enable an IR (infrared) microcontroller to send and receive infrared signals to and from devices such as a television remote control or a set-top cable box. Thus the audio and video devices controlled by Headley include portable wireless devices.

At any rate the Examiner presents the combination of Levitt-Headley having disclosed *receiving a playlist at a portable wireless device.*

Furthermore the Applicant is respectfully request to review prior art by Reisman, Richard (US 20040031058 Applicant) and Allport; David E. (US Patent 6882299) regarding portable wireless device for controlling STBs.

The Applicant presents the following argument(s) *[in italics]*:

Regarding claim 27, the combination of Headley and Levitt fails to teach or suggest a remote control having a display that is operative to display a playlist of identifiers associated with respective media items and direct the set-top box to request a media item associated with an identifier selected from the playlist from a remote content server.

The Examiner respectfully disagrees with the Applicant. Headley disclosed wherein the user is able to select a playlist. Furthermore Headley disclosed an STB for creating a playlist wherein the multimedia is stored on a remote database. The Examiner notes that in creating the playlist from a remote database Headley thus disclosed *direct the set-top box to request a media item associated with an identifier selected from the playlist from a remote content server.*

The Examiner further notes that where Levitt disclosed tuning into a multimedia channel Levitt disclosed *requesting a media item from the playlist from a remote content server.*

The Applicant presents the following argument(s) *[in italics]*:

Levitt discloses a PDA that displays EPG information for a television service to which the user is subscribed, rather than a playlist. More specifically, the PDA displays a number of television programs that are airing at that particular time, rather than a playlist.

The Examiner respectfully disagrees with the Applicant. Headley disclosed a playlist for playing multimedia in sequence. (Headley-Paragraph 45)

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. B./

Examiner, Art Unit 2144

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144